

ESTTA Tracking number: **ESTTA550904**Filing date: **07/29/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Ginger A Scherbarth		
Entity	Individual	Citizenship	UNITED STATES
Address	5392 Conifer Drive Mason, OH 45040 UNITED STATES		

Attorney information	Stacy A. Cole Graydon Head & Ritchey LLP 1900 Fifth Third Center 511 Walnut Street Cincinnati, OH 45202 UNITED STATES scole@graydon.com Phone:513-629-2838
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Registration Subject to Cancellation

Registration No	3549646	Registration date	12/23/2008
Registrant	Knapp, Kathy L. 680 Portage Court Vernon Hills, IL 60061 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2008/03/06 First Use In Commerce: 2008/03/21
All goods and services in the class are cancelled, namely: Business management consulting and advisory services

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86017725	Application Date	07/23/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ANOVIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/09/01 First Use In Commerce: 2002/09/01		

	Business management consulting and advisory services
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Attachments	ANOVIA - Petition for Cancellation with Exhibits.pdf(738660 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ Stacy A. Cole
Name	Stacy A. Cole
Date	07/29/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 3549646

For the mark: ANOVIA

ESTTA

GINGER ANN SCHERBARTH,

Petitioner,

v.

KATHY L. KNAPP,

Registrant.

Cancellation No. _____

PETITION FOR CANCELLATION

Petitioner Ginger Ann Scherbarth ("Scherbarth"), by and through counsel, believes that she will be damaged by the continued registration of the mark ANOVIA, Registration No. 3549646 (the "ANOVIA Mark"), owned and registered by Kathy L. Knapp ("Knapp"), and therefore petitions the Board to cancel registration of the ANOVIA Mark. Pursuant to 37 CFR §§ 2.111 and 2.112(a) and as grounds for cancellation, Scherbarth alleges as follows:

The Parties

1. Scherbarth is an Ohio resident with a primary address of 5392 Conifer Drive, Mason, Ohio 45040.

2. Upon information and belief, Knapp is an Illinois resident with a primary address of 680 Portage Court, Vernon Hills, Illinois 60061.

The Marks

3. Scherbarth is a sole proprietor who performs business management consulting

and advisory services under the trade name and service mark ANOVIA, which services include strategic HR/talent management, employee benefits consulting, management training, attraction and retention consulting, wellness and work-life consulting, mergers and acquisition strategy, and communication strategies, among other things.

4. On July 23, 2013, Scherbarth filed an application to register the ANOVIA service mark ("ANOVIA Service Mark") in the U.S. Patent and Trademark Office at Serial No. 86017725, I.C. 035, for business management consulting and advisory services (first use September 1, 2002). A true and accurate copy of the TSDR Status Report for the ANOVIA Service Mark is attached hereto as Exhibit A.

5. Scherbarth has continuously and pervasively used the ANOVIA Service Mark in commerce since at least as early as September 1, 2002 with respect to business management consulting and advisory services.

6. Under the ANOVIA Service Mark, Scherbarth has worked with multiple major corporations throughout Ohio and the Midwestern region.

7. Scherbarth has generated more than \$50,000.00 in revenue since she began doing business under the ANOVIA Service Mark.

8. Scherbarth registered the domain name www.anovia.com (the "ANOVIA Domain") on May 23, 2002, and has been continuously operating her business under the service mark ANOVIA and through the ANOVIA Domain since at least as early as September 2002. A true and accurate copy of the Whois information for the ANOVIA Domain is attached hereto as Exhibit B.

9. Other than through referrals and word of mouth, the ANOVIA Domain is, and

has been since September 2002, Scherbarth's primary means for marketing her business under the ANOVIA Service Mark. A true and accurate copy of the home page of the ANOVIA Domain is attached hereto as Exhibit C.

10. Scherbarth has amassed a significant amount of goodwill in the ANOVIA Service Mark.

11. Upon information and belief, Knapp registered the ANOVIA Mark (text only), Registration No. 3549646, for business management consulting and advisory services, on December 23, 2008, alleging a first use in commerce on March 21, 2008.

LIKELIHOOD OF CONFUSION

12. Scherbarth's rights in the ANOVIA Service Mark predate Knapp's alleged use of the ANOVIA Mark by nearly six years.

13. The ANOVIA Mark is identical to the ANOVIA Service Mark.

14. The ANOVIA Mark is confusingly similar to the ANOVIA Service Mark.

15. The ANOVIA Mark is used in connection with the same type of services, namely business management consulting and advisory services, as those services provided by Scherbarth under the ANOVIA Service Mark.

16. The consuming business market is apt to believe that Knapp's services are somehow related to or endorsed or sponsored by Scherbarth.

17. Knapp's ANOVIA Mark is so confusingly similar in sight, sound, meaning, and commercial impression to Scherbarth's ANOVIA Service Mark, which the consuming business market has long associated with Scherbarth, as to be likely, when applied to the services of Knapp, to cause confusion of or deceive the consuming business market in the mistaken belief

that Knapp's services emanate from or are disseminated under Scherbarth's approval, sponsorship, and/or control, all to Scherbarth's detriment and irreparable harm.

18. Knapp's continued registration of the ANOVIA Mark will enable Knapp to reap the benefits of the goodwill associated with the ANOVIA Service Mark and Scherbarth will suffer detriment and irreparable harm as a result of the confusion that is likely to arise from her inability to control her reputation.

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WHEREFORE, Scherbarth respectfully prays that the Board grant this Petition for Cancellation and cancel the registration of the ANOVIA Mark, Reg. No. 3549646.

Respectfully Submitted,

/s/ Stacy A. Cole

Stacy A. Cole (OH 0080075)

Counsel for Petitioner

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Phone: (513) 621-6464

Fax: (513) 651-3836

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the USPTO Trademark Trial and Appeal Board through ESTTA for filing in the following proceeding:

Cancellation No. _____

Ginger Ann Scherbarth v. Kathy L. Knapp

For the mark: ANOVIA

Registration No. 3549646

Dated: July 29, 2013

/s/ Stacy A. Cole

Stacy A. Cole (OH 0080075)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing ***Petition for Cancellation*** was served by regular U.S. Mail, postage prepaid, this 29th day of July, 2013, upon the following:

Kathy L. Knapp

680 Portage Court

Vernon Hills, IL 60061

/s/ Stacy A. Cole

Stacy A. Cole (OH 0080075)

STATUS

DOCUMENTS

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Mark: ANOVIA

ANOVIA

US Serial Number: 86017725

Application Filing Date: Jul. 23, 2013

Register: Principal

Mark Type: Service Mark

Status: New application will be assigned to an examining attorney approximately 3 months after filing date.

Status Date: Jul. 26, 2013

Mark Information

Mark Literal Elements: ANOVIA

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *,* identify additional (new) wording in the goods/services.

For: Business management consulting and advisory services

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101,

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 01, 2002

Use in Commerce: Sep. 01, 2013

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

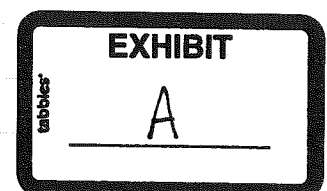
Currently 44D: No

Filed 44E: No

Currently 44E: No

Filed 66A: No

Currently 66A: No



Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Scherbarth, Ginger Ann

Owner Address: 5392 Conifer Drive
Mason, OHIO 45040
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED S

Attorney/Correspondence Information**Attorney of Record**

Attorney Name: Amanda J. Penick

Docket Number: SC451/10

Attorney Primary Email apenick@graydon.com

Attorney Email Authorized: Yes

Address:

Correspondent

Correspondent AMANDA J. PENICK

Name/Address: GRAYDON HEAD & RITCHEY LLP
511 WALNUT STREET
1900 FIFTH THIRD CENTER
CINCINNATI, OHIO 45202
UNITED STATES

Phone: 513-629-2733

Correspondent e-mail: apenick@graydon.comCorrespondent e-mail Yes
Authorized:**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Jul. 26, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information**TM Staff Information - None****File Location**

Current Location: NEW APPLICATION PROCESSING

Date in Location: Jul. 26, 20

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

[Network Solutions](#) >> [Whois](#) >> Results[Log In](#)

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WHOIS Results for anovia.com

Available domain names similar to anovia.com

Available Extensions

- ☐ **anovia.us**
- ☐ **anovia.us.com**
- ☐ **anovia.info**
- ☐ **anovia.mobi**

Available Domains

- ☐ a-novia.com
- ☐ jesanovia.com
- ☐ anovajes.com
- ☐ traanovia.com

Premium Resale Domains

- | | |
|---|-----------------|
| <input type="checkbox"/> anoi.com | \$32,000 |
| <input type="checkbox"/> anoo.net | \$1,988 |
| <input type="checkbox"/> avlf.com | \$888 |
| <input type="checkbox"/> abusinessinbox.com | \$200 |
| <input type="checkbox"/> anovia.pro | |
| <input type="checkbox"/> anovia.im | |
| <input type="checkbox"/> anovia.co | |
| <input type="checkbox"/> anovia.asia | |
| <input type="checkbox"/> anovia.xxx | |
| <input type="checkbox"/> anovia.ca | |
| <input type="checkbox"/> lesanovia.com | |
| <input type="checkbox"/> bodaanovia.com | |
| <input type="checkbox"/> stianovia.com | |
| <input type="checkbox"/> sananovia.com | |
| <input type="checkbox"/> cazaanovia.com | |
| <input type="checkbox"/> netanovia.com | |
| <input type="checkbox"/> anot.info | \$1,500 |
| <input type="checkbox"/> anol.org | \$888 |
| <input type="checkbox"/> justaphase.com | \$1,149 |

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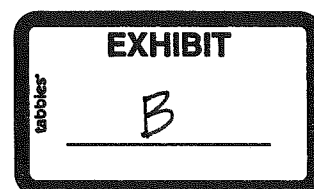
anovia.com

Is this your domain name? [Renew it now.](#) **IP Address:**

209.35.183.209 (ARIN & RIPE IP search)

Record Type: Domain Name**Server Type:** IIS 6**WebSite Status:** Active**Registrant:**

Ginger Scherbarth
5392 Conifer Drive
Mason, OH 45040
US



Domain name: ANOVIA.COM

Administrative Contact:
Scherbarth, Ginger gscherba@yahoo.com
5392 Conifer Drive
Mason, OH 45040
US
+1.5138866089
Technical Contact:
Scherbarth, Ginger gscherba@yahoo.com
5392 Conifer Drive
Mason, OH 45040
US
+1.5138866089

Registration Service Provider:
Hover, help@hover.com
416.538.5498
http://help.hover.com

Registrar of Record: TUCOWS, INC.
Record last updated on 10-Feb-2013.
Record expires on 23-May-2014.
Record created on 23-May-2002.

Registrar Domain Name Help Center:
<http://tucowsdomains.com>

Domain servers in listed order:
NS1.HOVER.COM
NS2.HOVER.COM

Domain status: clientTransferProhibited
clientUpdateProhibited

The Data in the Tucows Registrar WHOIS database is provided to you by for information purposes only, and may be used to assist you in obtain information about or related to a domain name's registration record.

Tucows makes this information available "as is," and does not guarant accuracy.

By submitting a WHOIS query, you agree that you will use this data on lawful purposes and that, under no circumstances will you use this data a) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass, unsolicited, commercial advertising solicitations to entities other than the data recipient's own existin customers; or (b) enable high volume, automated, electronic processes send queries or data to the systems of any Registry Operator or ICANN-Accredited registrar, except as reasonably necessary to registe domain names or modify existing registrations.

The compilation, repackaging, dissemination or other use of this Data expressly prohibited without the prior written consent of Tucows.

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Tucows reserves the right to modify these terms at any time.

By submitting this query, you agree to abide by these terms.

NOTE: THE WHOIS DATABASE IS A CONTACT DATABASE ONLY. LACK OF A DOMAI RECORD DOES NOT SIGNIFY DOMAIN AVAILABILITY.

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

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ANOVIA

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Welcome!

At ANOVIA, we provide strategic human resource management solutions that help our clients maximize investments in employees.

We work on initiatives that range the **HR spectrum** including:

- Strategic HR/Talent Management
- employee benefits;
- management training;
- attraction and retention;
- wellness and work-life;
- mergers and acquisitions;
- communication strategies that pull it all together.



*Clients choose **ANOVIA** when they want a partner that will help them achieve business goals while creating an environment where employees flourish.*

*For strategic advice, tailored best-practice solutions, and leadership in the execution of HR programs, contact us today for a **free** consultation.*

EXHIBIT

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